

### **Claims Status**

Claims 1-17 were pending in the Application. In the Office Action, Claims 1-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,446,049 to Janning et al. ("Janning") in view of U.S. Patent No. 6,314,406 to O'Hagan et al. ("O'Hagan"). Claims 16-17 were rejected as unpatentable over O'Hagan in view of Janning.

### **Claim Rejections**

#### **Janning**

A stated object of Janning is to provide "a transmission system for digital information that permits such digital information to be transmitted from a substantively electrically shielded environment." Col. 3, lines 40-45. Janning communicates billing information to a transceiver in the form of a radio signal:

Once the dispenser transceiver 22 is positioned sufficiently close to the receptacle transceiver 50 to permit reception of the interrogation signal and the receptacle transceiver 50 acknowledges reception of the interrogation signal during a polling cycle of the dispenser transceiver 22, the receptacle transceiver 50 transmits billing information (e.g., a credit card or debit card account number, expiration date, creditor identification, or any other information stored by the issuer of the charge or debit account) to the dispenser transceiver 22 in the form of a radio signal 55. . . . By using low frequency magnetic coupling to convey information instead of high frequency electromagnetic coupling, the receptacle transceiver 50 can be located within substantially electrically shielded environments physically associated with the receptacle 51 for the product, such as automobile trunks or automobile hoods, without substantially affecting transmission or reception.

Col. 9, lines 31-58.

The Janning dispenser transceiver thus communicates actual credit card or debit card information to a receptacle transceiver. Janning states that systems that encode a transponder “with a secondary account number that identifies, but does not actually represent, an actual credit card or debit account number” (col. 2, lines 63-65) are deficient because “such an approach limits or complicates universal acceptance of the system by vendors other than the issuer of the transponder due to the need to make available to other vendors a database cross referencing the actual and secondary account numbers.” Col. 2, line 66- Col. 3, line 3.

#### O’Hagan

O’Hagan is a retail customer information system allows “a customer to scan coupons at home with a scanner coupled to the customer’s home computer.” Col. 3, lines 14-16. The customer “can access the store[’]s host computer.” Col. 3, line 18. The customer then can “generate a shopping list through the host computer and apply the coupon list against the shopping list.” When at the store, the customer gains access to the shopping list by using a “shopping cart with a portable computing device (i.e., a mobile terminal) attached thereto.” Col. 3, lines 25-27. The portable computing device then helps the customer find the items in the list and scan the items for check-out:

The host computer via the access points and host computer can guide the customer through the store in the most efficient manner. For example, the host computer can generate a map and protocol for the user to find the products desired without having to go back and forth through the store.

Furthermore, the customer can scan the products found at the store with the bar code scanner attached to the portable computing device before placing the products in the cart. This aspect along with the avoidance of handing over paper coupons at checkout

substantially reduces the length of time necessary at the check-out line.

Col. 3, lines 30-42.

Independent Claim 1

Independent claim 1 recites, in part, “identifying in the customer data a product order selected by the customer,” and “providing the customer with the selected order at the retail location.” Applicants’ claim 1 also recites, in part, “accessing customer data based on the identifier,” and “identifying in the customer data a preferred payment method for the customer.” Leaving for further discussion below that Janning and O’Hagan can not be properly combined, Applicants respectfully submit that the cited references, alone or in combination, do not teach or suggest these claim elements.

*“Identifying in the Customer Data a Preferred Payment Method”*

As the Office Action acknowledges, Janning does not disclose “identifying in the customer data a preferred payment method for the customer.” O’Hagan does not do so either, however. As shown in O’Hagan, at Fig. 18 and at col. 17, lines 37-56, O’Hagan presents a “checkout form page 620” (col. 17, line 42) to the customer at the retail location after the customer has completed shopping: “Activation of these buttons cause the CIT 14 to transmit a link request to the host 12 to launch the debit/credit card checkout program.” Col. 17, lines 54-55. This is different than “identifying in the customer data a preferred payment method for the customer” and “executing payment by the customer for the selected order by the preferred payment method,” because O’Hagan requires the customer to enter the payment information into

the CIT 14, instead of obtaining preferred payment information from the customer data. Thus, neither Janning or O'Hagan has these claim elements.

*"Providing the Selected Order At the Retail Location"*

The Office Action states that Janning provides the customer with the selected order at the retail location. The Office Action refers to Janning at col. 10, lines 35-38, which states:

Once the POS computer responds via the card reading device 35 authorizing the transaction, the card reader interface 30 release the card receptacle control lines, allowing normal operation of the card receptacle and thereby effectively generating a control signal to enable the dispenser 18 to dispense the product.

Janning, Col. 10, lines 33-38. As the Office Action acknowledges, however, Janning does not disclose identifying in the customer data a product order selected by the customer. Janning therefore can not provide the customer with the selected order (e.g., identified in the customer data) at the retail location.

Independent Claim 16

Independent Claim 16 recites, in part, "identifying in the customer data a selected customer order and a preferred payment method." Independent claim 16 also recites, in part, "a display for displaying the selected customer order at the retail location to a retail clerk."

As discussed above, neither Janning nor O'Hagan, alone or in combination, identify in customer data a preferred payment method.

In addition, neither Janning nor O'Hagan have the claimed display. The Office Action states that O'Hagan has such a display at Fig. 18, however, as discussed above, the O'Hagan checkout form page 620 is presented to the customer, not the retail clerk:

When the customer has finished shopping, the customer activates the checkout button on the main menu. Activation of the button

causes the CIT 14 to generate a link request for the checkout page which is graphically shown at 620 in FIG. 18.

Col. 17, lines 37-42 (underlining added). This is because it is the customer in O'Hagan who walks around the aisles with the shopping cart, not the retail clerk.

#### Combination Not Proper

Applicants also respectfully submit that the Office Action does not provide a proper basis for the combination of Janning and O'Hagan. Janning is used in a gas pump or other "business transaction system (e.g., a vending system, a material tracking system, or a highway toll system)" (Abstract), while O'Hagan is directed to a system for more efficient supermarket shopping. The features of O'Hagan that allow for coupon selection and direction to the correct isle in the supermarket would have no place in a gas station. Likewise, the features of Janning, which allow for retail payment from a substantially shielded environment and use in vending systems of multiple vendors, would be applicable to O'Hagan only if consumers were seeking to bring their cars into the supermarket, because Janning assumes that each car is used by one consumer, while the O'Hagan shopping cart is used by multiple consumers. Janning and O'Hagan also are different approaches to storing data in that Janning stores data on the receptacle transceiver, while O'Hagan makes use of a host computer.

Moreover, there is no suggestion in the references of motivation for combining the references in the particular manner that the Office Action suggests in attempting to reach Applicants' claimed invention. For example, neither system is directed to efficiently identifying a customer at a retail location, providing a specified customer order to the customer, and handling payment for that specified customer order using a preferred payment method.